

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

HANOVER INSURANCE COMPANY)	
)	
<i>Plaintiff,</i>)	
)	
v.)	CIVIL ACTION FILE
)	
PEACHTREE ORTHOPAEDIC CLINIC,)	NO.: 1:17-CV-04236-MLB
P.A.,)	
)	
<i>Defendant.</i>)	
_____)	

**NOTICE OF SETTLEMENT
AND CONSENT MOTION FOR EXTENSION OF TIME**

Plaintiff Hanover Insurance Company (“Hanover” or “Plaintiff”) and Defendant Peachtree Orthopaedic Clinic, P.A. (“POC” or “Defendant”) write to notify the Court of a settlement reached between the parties. The parties expect settlement documentation to be finalized and executed within thirty (30) days and that a dismissal will be filed shortly thereafter. Given the pending May 16, 2019 answer deadline, the Parties jointly and respectfully move the Court for an Order extending the time for POC to respond to Hanover’s Second Amended Complaint for an additional thirty (30) days to allow the parties to document the settlement. In support of this Motion, the Parties state as follows:

1. Plaintiff filed its Complaint in this action on October 24, 2017 seeking a declaratory judgment related to an insurance policy issued to POC containing, among other things, a duty to defend POC in certain proceedings. (Doc. 1.) In its Complaint, Hanover requested a declaration that it was not obligated to defend POC in an underlying putative class action then pending in the Superior Court of Fulton County, Georgia. (*Id.* at ¶ 3.)

2. Plaintiff requested a number of extensions of time to serve POC to allow for a resolution of the motion to dismiss filed by POC in underlying action before proceeding with the above-captioned action (Docs. 5, 7, 9.)

3. Prior to serving the original Complaint on POC, on January 18, 2019, Plaintiff filed a First Amended Complaint. (Doc. 15.)

4. Then, on February 8, 2019, Plaintiff filed a Second Amended Complaint dropping the plaintiff in the underlying action as a party defendant. (Doc. 17.) Counsel for Hanover mailed POC a waiver of service of summons on February 15, 2019.

5. Following the execution of the waiver of service, the parties attempted to negotiate a resolution of the above-captioned action. Among other things, the parties engaged in some negotiations and discussed scheduling a mediation. In

order to avoid unnecessary time and expense, POC did not prepare its responsive pleading during this time period.

6. On Tuesday, April 9, 2019, counsel for Hanover indicated that Hanover was no longer interested in a mediation. Counsel for Hanover, however, understood the posture of the action and agreed to provide POC consent for a thirty (30) day extension of time to answer, move, plead, object, or otherwise respond to Plaintiff's operative complaint, the Second Amended Complaint.

7. POC filed a consent motion for extension of time to answer, move, plead, object, or otherwise respond to Plaintiff's Second Amended Complaint on April 9, 2019. (Doc. 19.)

8. That same day, the Court entered an Order granting the Consent Motion for Extension of Time for POC to Respond to the Second Amended Complaint and set a May 16, 2019 deadline for POC's responsive pleading. (Doc. 20.) The Court's Order indicated that the Court would not provide further extensions.

9. While POC was preparing its responsive pleading, the parties engaged in additional settlement discussions. Those discussions were fruitful, and on Friday, May 3, 2019, the parties agreed to a settlement.

10. POC's current answer deadline is May 16, 2019, and the parties respectfully request an extension of the answer deadline by thirty (30) days to allow the parties to prepare and execute settlement documentation.

11. Given the settlement in principle, no party would be prejudiced by the extension sought herein. In addition, the extension will save both party and Court resources, as the settlement and a dismissal will eliminate the need for these proceedings altogether.

WHEREFORE, Plaintiff Hanover Insurance Company and Defendant Peachtree Orthopaedic Clinic, P.A. respectfully request a thirty (30) day extension of time through and including Monday, June 17, 2019 for POC to answer, move, plead, object, or otherwise respond to Plaintiff's Second Amended Complaint. The parties anticipate filing a notice of dismissal no later than June 17, 2019. A proposed order is attached for the Court's convenience.

[Signatures on Following Page]

Respectfully submitted this 6th day of May, 2019.

**LOKEY, MOBLEY, AND DOYLE,
LLP**

/s/ Kevin A. Doyle

Kevin A. Doyle

Georgia Bar No. 228449

8425 Dunwoody Place

Atlanta, Georgia 30350

(770) 640-9441

kdoyle@moble-ly-doy-le.com

*Counsel for Plaintiff Hanover
Insurance Company*

**PARKER, HUDSON, RAINER &
DOBBS, LLP**

/s/ Scott E. Zweigel

William J. Holley, II

Georgia Bar No. 362310

Scott E. Zweigel

Georgia Bar No. 786616

303 Peachtree Street, NE

Suite 3600

Atlanta, Georgia 30308

Telephone: 404-523-5300

Facsimile: 404-522-8409

E-Mail: wholley@phrd.com

E-Mail: szweigel@phrd.com

*Counsel for Defendant Peachtree
Orthopaedic Clinic, P.A.*

CERTIFICATE OF COMPLIANCE

In compliance with N.D. Ga. R. 7.1D, I certify that the foregoing **NOTICE OF SETTLEMENT AND CONSENT MOTION FOR EXTENSION OF TIME** has been prepared in conformity with N.D. Ga. R. 5.1. This Notice and Motion was prepared with Times New Roman (14 point) type, with a top margin of one and one-half (1 ½) inches and a left margin of one (1) inch. This Notice and Motion is proportionately spaced, and is not longer than 25 pages.

/s/ Scott E. Zweigel
Scott E. Zweigel

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the within and foregoing **NOTICE OF SETTLEMENT AND CONSENT MOTION FOR EXTENSION OF TIME** with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification of such filing to all attorneys of record.

This 6th day of May, 2019.

/s/ Scott E. Zweigel
Scott E. Zweigel